

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

RICHARD S. AUGUSTINE,
#672057

Petitioner,

v.

INS,

Respondent.

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§

CIVIL ACTION NO. H-05-2664

ORDER TO TRANSFER

Petitioner, a citizen of the United Kingdom, who in 1995, was convicted of aggravated assault, has filed a petition for writ of habeas corpus pursuant to § 28 U.S.C. § 2241 to challenge a final removal order. Petitioner is incarcerated in the Beto Unit of the Texas Department of Criminal Justice-Correctional Institutions Division in Anderson County, Texas. (Docket Entry No.1).

Section 2241(a) of 28 United States Code confers upon federal courts the authority to grant writs of habeas corpus “within their respective jurisdictions.” 28 U.S.C. § 2241. To entertain a section 2241 habeas petition, the district court must, upon the filing of the petition, have jurisdiction over the prisoner or his custodian.” *United States v. Brown*, 753 F.2d 455, 456 (5th Cir. 1985). At the time petitioner filed this habeas action, he was confined in the Beto Unit in Anderson County, Texas. (Docket Entry No.1). Anderson County is located within the jurisdiction of the United States District Court for the Eastern District of Texas, Tyler Division. Therefore, this Court lacks jurisdiction to consider petitioner’s suit.

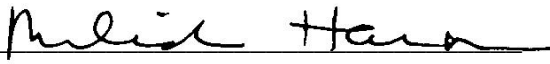
When a civil action is filed in a court and that court finds that it lacks jurisdiction, the court shall transfer the action to any other court in which the action could have been brought at the time

it was filed. 28 U.S.C. §1613. Accordingly, the Clerk shall TRANSFER this petition for writ of habeas corpus.

to the Clerk of the United States District Court for the Eastern District of Texas, Tyler Division. Petitioner's application to proceed as a pauper (Docket Entry No.2) and any other pending motion are DENIED, without prejudice, subject to reconsideration upon transfer to the Tyler District Court.

The Clerk will provide a copy of this order to the parties.

SIGNED at Houston, Texas, on the 14th day of September, 2005.


MELINDA HARMON
UNITED STATES DISTRICT JUDGE